

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

SB 1692 - HB 2064

March 25, 2011

SUMMARY OF BILL: Renders a defendant who had a severe and persistent mental illness (SPMI) at the time of committing the offense of first degree murder ineligible for the death penalty. Defines “severe and persistent mental illness” and requires a defendant to demonstrate by a preponderance of the evidence that he was suffering from SPMI at the time the offense was committed. Permits a defendant who failed to meet the burden of proof of establishing SPMI to offer at trial evidence of insanity and at any capital sentencing hearing mitigating evidence that he suffered from a diminished mental capacity.

ESTIMATED FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions:

- Currently, capital and non-capital defendants assert available mental health defenses. First degree murder trials and capital sentencing hearings frequently address mental health issues of the defendant. Mental retardation, as defined by statute, also precludes imposition of the death penalty. Courts conduct pretrial hearings related to mental health issues on a regular basis.
- Adding a prohibition against the death penalty for a defendant who meets his burden of establishing he was suffering from SPMI at the time of the offense or in the alternative permitting the use of such evidence to advance an insanity defense or as mitigation evidence at a capital sentencing hearing will not result in a significant impact on current court procedure.
- According to the Department of Mental Health, there could be a slight increase in the number of evaluations and attendant testimonies due to the addition of SPMI, resulting in a minimal impact to the Department.
- This statute will be applied on an not significant basis due to the relative infrequency of capital cases and the number of those believed to be suffering from SPMI.
- According to the Department of Correction, there could be a slight decrease in expenditures as a result of this bill.
- Any additional cost for the District Attorneys General Conference can be accommodated within existing judicial resources.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink, reading "James W. White". The signature is fluid and cursive, with the first name "James" written in a smaller, more compact script than the last name "White".

James W. White, Executive Director

/lsc